

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

DARRYL D. REGGINS #184051)

PLAINTIFF

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CLASS ACTION

VS.

2008 MAR 26 A 9:58

Civil Action No: 2:08CV218-MHT

Richard Allen, et al.

DEBRA D. NACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

DEFENDANTS

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS
MOTION FOR IMMEDIATE PRELIMINARY INJUNCTION

PLAINTIFFS SUBMIT THIS MEMORANDUM OF LAW IN SUPPORT OF THEIR
MOTION FOR IMMEDIATE PRELIMINARY INJUNCTION

IN DETERMINING WHETHER A PRELIMINARY INJUNCTION SHOULD BE ISSUED
A COURT MUST CONSIDER WHETHER THE PARTY SEEKING THE INJUNCTION
HAS DEMONSTRATED THAT:

1) IT HAS A REASONABLE LIKELIHOOD OF SUCCESS ON THE MERITS OF
THE UNDERLYING CLAIM; (2) NO ADEQUATE REMEDY AT LAW EXISTS; (3)
PLAINTIFF HAVE AND CONTINUES TO SUFFER IRREPARABLE HARM IF THE
PRELIMINARY INJUNCTION IS DENIED; (4) THE IRREPARABLE HARM THE
PLAINTIFFS WILL SUFFER WITHOUT INJUNCTIVE RELIEF IS GREATER THAN
THE HARM THE OPPOSING PARTY WILL SUFFER IF THE PRELIMINARY INJUN-
CTION IS GRANTED; AND (5) THE PRELIMINARY INJUNCTION WILL NOT
HARM THE PUBLIC INTEREST. TY, INC. V. JONES GROUP, INC., 237 F.3d
891 895 (7th CIR. 2001); PLATINUM HOME MORTGAGE CORP V. PLATINA-
MUM FIN. GROUP, INC., 149 F.3d 722 726 (7th CIR. 1998)

I. THERE IS A REASONABLE LIKELIHOOD THAT PLAINTIFFS WILL
SUCCEED ON THE MERITS IN THIS CASE

IN THE SEVENTH CIRCUIT THE THRESHOLD FOR SHOWING A REASONABLE
 LIKELIHOOD OF SUCCESS IS LOW PLAINTIFFS NEED ONLY DEMONSTRATE A
 "BETTER THAN NEGLIGIBLE CHANCE OF SUCCEEDING" COOPER V. SALAZAR
 196 F.3d 809, 813 (7th Cir. 1999)

HERE PLAINTIFFS ARE VERY LIKELY TO PREVAIL ON THE MERITS THE EIGHTH
 AMENDMENT REQUIRES PRISON OFFICIALS TO PROTECT THE HEALTH AND
 SAFETY OF INMATES THEY MAY NOT ACT WITH DELIBERATE INDIFFERENCE
 TO THE DEPRIVATION OF A BASIC HUMAN NEED FARMER V. BRENNAN
 511 U.S. 825 (1994)

IT IS WELL ESTABLISHED THAT ADEQUATE MEDICAL TREATMENT AND SEC-
 URITY IN PRISONS IS A BASIC HUMAN NEED AS THE SEVENTH CIRCUIT
 HAS EXPLAINED "ADEQUATE MEDICAL TREATMENT AND SECURITY IS NO
 LONGER CONSIDERED AN OPTIONAL FORM OF CHOICE FOR PRISON OFFICIALS
 BUT IS INSTEAD A NECESSARY REQUIREMENT FOR PHYSICAL AND
 MENTAL WELLBEING" FARMER V. BRENNAN, 511 U.S. AT 837 WILSON 50
 U.S. AT 299 - WHITLEY 475 U.S. AT 319 ESTELLE V. GAMBLE 429
 U.S. 104-05 (1976) BORETTI V. WISCONSIN 930 F.2d 1150, 1154-55
 (6th Cir. 1991) ANTONELLI V. SHEAHAN 81 F.3d ~~1422~~ 1429 (7th Cir. 1996)

HERE AS PLAINTIFFS VERIFIED COMPLAINT SHOWS PLAINTIFFS HAVE BEEN
 AND CONTINUES TO BE DENIED ADEQUATE MEDICAL TREATMENT AND SEC-
 URITY AND KNOWINGLY AND WILLINGLY INTENTIONALLY PLACING THEM IN
 HARM'S WAY

WHILE DEFENDANTS HAS CONTINUED TO SHOW DELIBERATE INDIFFERENCE
 TO INMATES AT W.C. HOLMAN PRISON FOR MEN PLAINTIFF HAS MADE
 REPEATED REQUESTS FOR ADEQUATE MEDICAL TREATMENT TO DEFENDANTS
 BOTH VERBALLY AND IN WRITTEN ADMINISTRATIVE COMPLAINTS AND
 GRIEVANCES

II. PLAINTIFFS FACE A SUBSTANTIAL THREAT OF IRREPARABLE HARM

IRREPARABLE HARM WILL RESULT UNLESS AN INJUNCTION IS GRANTED

IN THIS CASE AS A RESULT OF BEING DENIED ADEQUATE MEDICAL TREATMENT AND SECURITY PLAINTIFFS HAS SUFFERED AND CONTINUE TO SUFFER SERIOUS PHYSICAL AND MENTAL INJURIES

IN DELANEY V. DETELLA THE SEVENTH CIRCUIT HELD THAT SIMILAR INJURIES WERE SUFFICIENTLY SERIOUS TO SUPPORT A CLAIM UNDER THE EIGHTH AMENDMENT 256 F.3d AT 685

PLAINTIFFS HAVE REPORTED THEIR CONCERNS OF INJURIES TO DEFENDANTS ORAL AND IN WRITTEN ADMINISTRATIVE COMPLAINTS AND GRIEVANCES PUTTING THEM ON NOTICE OF THE POTENTIAL THREAT CAUSED BY THEIR ACTIONS AND REFUSAL OF ADEQUATE MEDICAL TREATMENT AND SECURITY DEFENDANTS HAVE REFUSED TO CHANGE THEIR POLICY AS A RESULT OF DEFENDANTS DELIBERATE INDIFFERENCE PLAINTIFFS WILL CONTINUE TO FACE A GREAT SUBSTANTIAL RISK OF SERIOUS IRREPARABLE HARM AND OR DEATH AS LONG AS THEIR REFUSED ADEQUATE MEDICAL TREATMENT THE INJURIES MAY LAST FOR MONTHS EVEN YEARS IF NOT DEATH

ANY REMEDY AT LAW FOR PLAINTIFFS WOULD BE INADEQUATE THE SEVENTH CIRCUIT HAS EXPLAINED THAT IN THE CONTEXT OF A MOTION FOR PRELIMINARY INJUNCTION THE TERM "INADEQUATE" DOES NOT MEAN "WHOLLY INEFFECTUAL" BUT RATHER "SERIOUSLY DEFICIENT AS A REMEDY FOR THE HARM SUFFERED" ROLAND MACH. CO. V. DRESSER INDUS. INC., 749 F.2d 380, 386 (7th Cir. 1984) HERE ANY AFTER-THE-FACT REMEDY FOR THE SERIOUS INJURIES THAT THE PLAINTIFFS ARE NOW SUFFERING WOULD BE SERIOUSLY DEFICIENT SEE JOLLY V. COUGHLIN 76 F.3d 468, 482 (2nd Cir. 1996) (FINDING THAT PLAINTIFF HAD SUSTAINED IRREPARABLE HARM "THAT CAN NOT BE ADEQUATELY COMPENSATED MONETARILY") PRELIMINARY INJUNCTION RELIEF IS APPROPRIATE TO CORRECT THIS ONGOING CONSTITUTIONAL VIOLATION

III. THE THREATENED HARM TO PLAINTIFF OUTWEIGHS ANY HARM THAT THE INJUNCTION MAY CAUSE DEFENDANTS

THE THREAT OF HARM TO PLAINTIFFS OUTWEIGHS ANY HARM THAT MIGHT RESULT TO DEFENDANTS BY A PRELIMINARY INJUNCTION AS THIS MEMORANDUM HAS EXPLAINED. PLAINTIFFS AT W.C. HOLMAN PRISON FOR MEN SEGREGATION ANNEX UNIT (SINGLE MAN CELL) UNOBSERVED AND BEING REFUSED ADEQUATE MEDICAL TREATMENT AND SECURITY SHOWS THEY ARE EXPOSED TO ONGOING SUBSTANTIAL RISK OF SERIOUS IRREPARABLE HARM OR DEATH AS THEY ARE BEING KNOWINGLY AND WILLINGLY OVER MEDICATED. THE RELIEF THAT PLAINTIFFS SEEK IS ESSENTIALLY AN ORDER COMPELLING DEFENDANTS TO PERFORM THEIR PRE-EXISTING DUTIES UNDER THE UNITED STATES CONSTITUTION SEE FARDER 511 U.S. AT 825, 833 (1994) AND ESTELLE V. GAMBLE, 429 U.S. 97 104-05 (1976). THE PROPOSED RELIEF IS NARROWLY TAILORED TO REMEDY THE VIOLATION OF PLAINTIFFS CONSTITUTIONAL RIGHTS AND TO PREVENT THE OCCURRENCE OF IRREPARABLE HARM IN THE FUTURE SEE 18 U.S.C § 3626 (A). IT WILL NOT CAUSE DEFENDANTS ANY REAL "HARM"

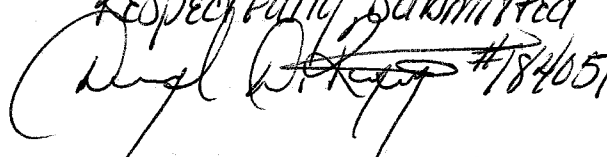
IV. The Public Interest Will Not be Diserved by A GRANT OF A PRELIMINARY INJUNCTION

FINALLY PLAINTIFFS SEEK AN IMMEDIATE PRELIMINARY INJUNCTION TO PROTECT THEIR RIGHTS UNDER THE EIGHTH AMENDMENT AS A GENERAL MATTER THE "PUBLIC INTEREST... IS ALWAYS WELL SERVED BY PROTECTING THE CONSTITUTIONAL RIGHTS OF ALL ITS MEMBERS" REINERT V. HAAS 585 F. Supp. 477, 481 (S.D. IOWA 1984) SEE ALSO SPARTACUS YOUTH LEAGUE V. BOARD OF TRUSTEES, 502 F. Supp. 789, 804 (N.D. ILL. 1980) (FINDING THAT "THE ULTIMATE PUBLIC INTEREST LIES IN THE PROTECTION OF THE CONSTITUTIONAL RIGHTS WHICH PLAINTIFF ASSERT"). THE PUBLIC INTEREST IS NOT SERVED BY THE DEFENDANTS CURRENT PRACTICE OF SUBJECTING INMATES IN ADMINISTRATIVE SEGREGATION ANNEX UNIT TO THE DEPRIVATION OF A BASIC HUMAN NEED

CONCLUSION

FOR THESE REASONS PLAINTIFFS ASK THIS COURT TO ORDER DEFENDANTS
THEIR SUCCESSORS, AGENTS, EMPLOYEES, AND ALL PERSONS ACTING IN
CONCERT WITH THEM TO PROVIDE PLAINTIFFS WITH ADEQUATE MEDICAL
TREATMENT AND SECURITY AT W.C. HOLMAN PRISON FOR MEN

Respectfully Submitted this 09th DAY OF MARCH 2008

Respectfully submitted
 #184051

DARRYL D. RIGGINS #184051
SEG. ANNEX-K-34-A
HOLMAN UNIT 3700
ANDRE, ALABAMA 36503